

SERVICE DATE – APRIL 14, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-883 (Sub-No. 1X)

ROCKY MOUNT AND WESTERN RAILROAD CO., INC.–  
ABANDONMENT EXEMPTION–IN NASH COUNTY, NC

IN THE MATTER OF AN OFFER OF FINANCIAL ASSISTANCE

Decided: April 13, 2006

Rocky Mount and Western Railroad Co., Inc. (RM&W) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon approximately 4.7 miles of railroad from approximately milepost 134.8 at or near Momeyer to the end of the rail line at approximately milepost 139.5 at or near Spring Hope, in Nash County, NC. Notice of the exemption was served and published in the Federal Register on March 9, 2005 (70 FR 11731). The exemption was scheduled to become effective on April 8, 2005, but on March 18, 2005, the North Carolina Department of Transportation (NCDOT) timely filed a formal expression of intent to file an offer of financial assistance (OFA) under 49 U.S.C. 10904 and 49 CFR 1152.27(c)(2) to purchase the entire line. The filing had the effect of automatically staying the effective date of the exemption for 10 days, until April 18, 2005. NCDOT simultaneously requested RM&W to provide valuation information.

On April 5, 2005, NCDOT filed a petition to toll the 30-day period for submitting its OFA to allow time for it to receive the information it had requested, and, on April 8, 2005, although it had not received the information requested of RM&W, NCDOT filed an OFA using information it had available at that time. By decision served April 8, 2005, NCDOT was given until May 9, 2005, to supplement its OFA, and the effective date of the exemption was extended until May 19, 2005.

On May 9, 2005, NCDOT filed its supplemental OFA under 49 U.S.C. 10904 and 49 CFR 1152.27(c) to purchase the entire line. By decision served May 12, 2005, NCDOT was found to be financially responsible and the effective date of the abandonment exemption was postponed to permit the OFA process to proceed.

On June 20, 2005, the State of North Carolina Department of Justice (NCDOJ), on behalf of the NCDOT and RM&W, advised the Board that the parties had entered into an agreement in principle for purchase of the line. By facsimile received on April 3, 2006, NCDOJ counsel notified the Board that the parties have agreed to the purchase price and terms for sale of the line, and, on behalf of NCDOT, requested that the Board approve the transaction and dismiss RM&W's notice of exemption.

When a carrier and a person offering to purchase a line under the OFA process enter into an agreement for continued rail service, the Board is required to approve the transaction and dismiss the abandonment notice of exemption. See 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2). Accordingly, the sale will be approved and the notice of exemption will be dismissed.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Under 49 U.S.C. 10904, NCDOT is authorized to acquire and operate the line.
2. Under 49 U.S.C. 10904 and 49 CFR 1152.27(f)(2), the notice of exemption is dismissed effective on the date the sale is consummated.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary